

## SENATE BILL NO. 445

INTRODUCED BY G. BRANAE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A MEDICAL PRACTITIONER WITH A PERMIT TO  
DISPENSE DRUGS AT EMPLOYER-BASED ONSITE CLINICS PURSUANT TO A PRESCRIPTION WRITTEN  
BY A MEDICAL PRACTITIONER; AMENDING SECTION 37-2-104, MCA; AND PROVIDING AN IMMEDIATE  
EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 37-2-104, MCA, is amended to read:

**"37-2-104. Dispensing of drugs by medical practitioners unlawful -- exceptions.** (1) Except as  
otherwise provided by this section, it is unlawful for a medical practitioner to engage, directly or indirectly, in the  
dispensing of drugs.

(2) This section does not prohibit:

(a) a medical practitioner from furnishing a patient any drug in an emergency;

(b) the administration of a unit dose of a drug to a patient by or under the supervision of a medical  
practitioner;

(c) dispensing a drug to a patient by a medical practitioner whenever there is no community pharmacy  
available to the patient;

(d) the dispensing of drugs by a medical practitioner:

(i) occasionally, but not as a usual course of doing business; ~~by a medical practitioner; or~~

(ii) at an employer-based onsite clinic pursuant to a written prescription from a medical practitioner;

(e) a medical practitioner from dispensing drug samples;

(f) the dispensing of factory prepackaged contraceptives, other than mifepristone, by a registered nurse  
employed by a family planning clinic under contract with the department of public health and human services if  
the dispensing is in accordance with:

(i) a physician's written protocol specifying the circumstances under which dispensing is appropriate; and

(ii) the drug labeling, storage, and recordkeeping requirements of the board of pharmacy;

(g) a contract physician at an urban Indian clinic from dispensing drugs to qualified patients of the clinic.

1 The clinic may not stock or dispense any dangerous drug, as defined in 50-32-101, or any controlled substance.  
2 The contract physician may not delegate the authority to dispense any drug for which a prescription is required  
3 under 21 U.S.C. 353(b).

4 (3) FOR PURPOSES OF THIS SECTION, A MEDICAL PRACTITIONER DISPENSING A PRESCRIPTION PURSUANT TO  
5 SUBSECTION (2)(D)(II) SHALL APPLY TO THE BOARD OF MEDICAL EXAMINERS FOR A WRITTEN PERMIT TO DISPENSE  
6 PRESCRIPTION DRUGS EXCEPT THAT A WRITTEN PERMIT IS NOT REQUIRED IN ORDER TO DISPENSE DRUG SAMPLES. IF A  
7 MEDICAL PRACTITIONER VIOLATES THE PROVISIONS OF THIS SECTION GOVERNING THE DISPENSING OF PRESCRIPTION  
8 DRUGS, THE MEDICAL PRACTITIONER'S DISPENSING PERMIT MUST BE REVOKED AND THE MEDICAL PRACTITIONER IS  
9 SUBJECT TO DISCIPLINARY ACTIONS BY THE BOARD OF MEDICAL EXAMINERS.

10 (4) THE DISPENSING OF DRUGS PURSUANT TO SUBSECTION (2) DOES NOT ALLOW A MEDICAL PRACTITIONER TO  
11 DISPENSE ANY NARCOTIC DRUGS AS DEFINED IN 50-32-101.

12 (5) FOR PURPOSES OF THIS SECTION, "EMPLOYER-BASED ONSITE CLINIC" MEANS A HEALTH CARE FACILITY, AS  
13 DEFINED IN 50-16-504, THAT IS SPONSORED BY AN EMPLOYER FOR THE BENEFIT OF ITS EMPLOYEES AND THEIR  
14 DEPENDENTS."

15  
16 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

17 - END -